

ENTERTAINMENT REVENUE

STATE OF NEVADA
GAMING CONTROL BOARD
GAMING AUDIT PROCEDURES MANUAL

ENTERTAINMENT REVENUE

PREFACE

This section of the GAP manual was prepared solely to assist accountants and auditors (internal and external) who have responsibilities related to the Live Entertainment Tax in Nevada gaming establishments. It is not intended to function as a stand-alone document. It should be read in conjunction with NRS 368A, NAC 368A, and other materials (especially the FAQs) found at:
http://gaming.nv.gov/live_entertainment_tax.htm.

Non-gaming taxpayers should not use the advice contained herein, but should refer all questions to the Department of Taxation.

The following pertains to any narrative in this document that pertains to specific taxation issues:

Note: The guidance herein cannot necessarily be applied universally to all situations without further consideration. Licensees who desire a ruling as to whether the guidance herein or a specific section of the live entertainment tax statute or regulation applies to a specific tax situation should direct a written request for an advisory ruling to the State Gaming Control Board ("Board").

Furthermore, although the Board believes this guidance is correct, licensees may petition the Nevada Gaming Commission ("Commission") for a redetermination of any audit adjustments included in a Statement of Determination prepared by the Board, even if the adjustment is consistent with the advice given herein. The Commission has neither approved nor disapproved this guidance.

ENTERTAINMENT TAX TERMINOLOGY

The following terminology is applicable to casino entertainment tax:

| | |
|----------------------------------|---|
| Complimentary | An item (or service) of value that the licensee usually sells, that is given to a patron without the patron having to pay for the item (e.g., complimentary drinks, food, rooms, etc.). |
| Dark days | Days without entertainment. |
| Detail cash register tape | A tape that records each transaction that occurs on the register. Alternatively, a computer-generated detailed transaction report by location or by cash register is acceptable. |

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| Facility | On the premises of a licensed gaming establishment which is licensed for 51 or more slot machines, or that has 6 or more table games, this is any area or premises where live entertainment is provided . For gaming establishments with less than 51 machines and less than 6 table games, "facility" means any area premises where live entertainment is provided and for which consideration is collected for the right or privilege of entering that area or those premises if the live entertainment is provided. [NRS 368A.060] Note: the structure of this definition gives rise to differences in taxation among gaming establishments. Policies applicable to smaller gaming establishments are summarized in a letter dated June 29, 2005. http://gaming.nv.gov/documents/pdf/industry_ltr_083.pdf |
| Four-waller | An entity unrelated to a licensee that leases the licensee's showroom or other live entertainment facility. The regulations and statutes specifically require the licensee to maintain all records relating to the entertainment tax, to pay the entertainment tax and ensure compliance with all requirements. See FAQ J1 at http://gaming.nv.gov/documents/pdf/industry_ltr_083.pdf |
| Gross sales | The amount of sales that includes taxes and, sometimes, gratuities. |
| Live entertainment | Any activity provided for pleasure, enjoyment, recreation, relaxation, diversion or other similar purpose by a person or persons who are physically present when providing that activity to a patron or group of patrons who are physically present. Further defined in NRS 368A.090. |
| Maximum Occupancy | Defined at NRS 368A.200(7). Under NRS 368A.200, maximum occupancy governs the extent of taxation of various facilities. It is determined in the following order of priority: by determination of the Fire Marshal, or comparable government agency; if such occupancy has not been determined, the occupancy designated in any permit required to provide live entertainment; if such permit does not designate the maximum occupancy, the actual seating capacity of the facility. See also FAQ E1 at http://gaming.nv.gov/documents/pdf/let_faq.pdf |
| Net sales | The amount of sales without taxes and, if applicable, gratuities. |
| NGC-11 | Tax report form used to report entertainment revenue subject to the 10% tax and the resulting liability. |

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NGC-13 Tax report form used to report entertainment revenue subject to the 5% tax and resulting liability.

Retail price The amount charged to a customer who does not have a coupon or discount.

GENERAL

Most Nevada gaming licensees pay a 10% tax on all amounts paid for admission, food, refreshments and merchandise when these sales are made in conjunction with live entertainment in venues with a maximum occupancy of less than 7,500 and a 5% tax on admission charges for venues with a maximum occupancy of at least 7,500. This tax is referred to as the live entertainment tax (LET).

The table below and the narrative that follows address some key taxation issues under the LET statute and regulation effective as of July 1, 2005. Note that the tax is imposed by NRS 368A.200; and NRS 368A.090 defines live entertainment (NRS 368A.090(2)(a) specifies the types of activities that are considered live entertainment, while NRS 368A.090(2)(b) specifies the activities that are not considered live entertainment). Additionally, NRS 368A.200(5) identifies exemptions from the tax. NAC 368A provides more specific guidance on computing and recording the amounts subject to the tax.

LET Rules Effective 7/1/05

| <u>Issue</u> | <u>Taxability</u> |
|---|--|
| Facility size issue See “maximum occupancy” definition in preceding section. | Venues with maximum occupancy of 7,500 and up pay a 5% tax on admissions only. No tax on food, refreshments or merchandise. All other venues pay 10% on admissions, food, refreshments and merchandise. [NRS 368A.200(1)] For licensed gaming establishments having fewer than 51 slot machines and fewer than 6 table games, venues with a seating capacity of less than 200 persons are not subject to the tax. [NRS 368A.200(5)(e)] See: http://gaming.nv.gov/documents/pdf/industry_ltr_083.pdf |
| Merchandise sold outside showroom | Exempt from taxation provided that purchase of the merchandise does not entitle the purchaser to admission. [NRS 368A.200(5)(f)]. See also NAC 368A.430. |

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| <u>Issue</u> | <u>Taxability</u> |
|--|---|
| Boxing contests or exhibitions | Exempt provided that the event is governed by the provisions of NRS 467. [NRS 368A.200(5)(c)]. Note that NAC 368A.400 broadens the definition of “boxing contest or exhibition” to include “unarmed combat” as that term is defined in NRS 467.0107 |
| Charitable/Non-profit events | Exempt if the proceeds from admission charges become the property of the non-profit entity. [NRS 368A.200(5)(b) and NAC 368A.470 and 480]. See also FAQ section F at http://gaming.nv.gov/documents/pdf/let_faq.pdf and additional comments following this table. |
| Trade shows | Exempt per NRS 368A.200(5)(g). |
| Motion picture films/televised broadcasts of shows or other events/recorded or mechanical music or speech | Exempt because the definition of live entertainment states that performer and audience must be present in the facility. [NRS 368A.090]. |
| Outdoor concerts | Taxable if an admission charge applies or if a patron is required to purchase food, refreshment or merchandise. A new exemption for outdoor events was added in NRS 368A.200(5)(m) for those instances where no admission charge and no required purchase applies. See additional comments following this table about “offered to the public.” |
| Interactive entertainment | A special exemption was added in NRS 368A.200(5)(l) for live entertainment that is in conjunction with a motion simulator ride or similar attraction if the live entertainment is not the primary attraction (e.g., a casino area designed to simulate a space ship). |
| Music by musicians who move constantly through the audience; other performers who stroll continuously | Music provided by musicians who move constantly is exempt at all gaming establishments per NRS 368A.200(5)(h). Furthermore, NRS 368A.090(2)(b)(3) excludes from the definition of live entertainment other performances occurring at gaming establishments having at least 51 slots or 6 tables in cases where such performers stroll continuously. |
| Entertainment that occurs at private meetings or dinners/casual assemblage. Primary purpose is other than entertainment. | Exempt per NRS 368A.200(5)(i). See also NAC 368A.400(3). Further information may be found in FAQs section M at: http://gaming.nv.gov/documents/pdf/let_faq.pdf |

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| <u>Issue</u> | <u>Taxability</u> |
|---|---|
| Presented in the common area of a shopping mall | Exempt per NRS 368A.200(5)(j) unless the entertainment is in a facility within a mall. For gaming establishments, "facility" is very broadly defined; therefore, exemptions are uncommon. |
| Occasional performances by waiters, bartenders, etc. | Exempt per NRS 368A.090(2)(b)(2) <u>under certain conditions.</u> |
| Occasional "ambience" entertainment (e.g., go-go dancers in a nightclub). | Exempt per NRS 368A.090(2)(b)(8) <u>only if specified tests are met.</u> |

Other taxation issues:

Admission charges in areas with gaming - If the licensee has gaming in an area where an admission charge is imposed (requires approval by the Board Chairman), and the area would *not otherwise* be subject to the tax, the admission charges are subject to LET. For example, a venue with a DJ whose sole activity consisted of playing recorded music would *not otherwise* be subject to the live entertainment tax. However, if the licensee were to obtain approval to have slot machines in this venue and were to charge admission to get in, then the **admission charges** would be subject to the live entertainment tax pursuant to **NRS 463.15995 and Regulation 5.210(8)**. Note, however, that the food, beverage and merchandise sales are not subject to the tax.

If live entertainment is offered in the venue, then the normal rules for live entertainment taxation apply.

Beauty Pageants, talent contests and similar events – Events of this type, including such things as Mr. Universe, bikini contests, etc. are all considered live entertainment. Unless there is some specific exemption that applies, the event is subject to the live entertainment tax. See also FAQ H8 at http://gaming.nv.gov/documents/pdf/let_faq.pdf

Charitable/Nonprofit events – Under **NRS 368A.200(5)(b)** and **NAC 368A.470**, the proceeds from an event conducted by or entirely for the benefit of a nonprofit organization are not subject to the live entertainment tax. The determination of nontaxability rests upon whether the ticket proceeds are given to the nonprofit organization. This means that if the ticket proceeds are donated, but the licensee keeps the proceeds from food or beverage sales, the whole event remains nontaxable. If, on the other hand, the licensee keeps the ticket sales, or any portion thereof, the whole event is taxable (admissions, food, beverage, and merchandise sales). This does not mean, however, that the licensee cannot retain a portion of the proceeds to cover costs as described in the regulation. It is not acceptable, however, for the licensee to donate a specified dollar amount to the nonprofit and call this a charitable event. Additionally, **NAC 368A.470**

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addresses the scope of the exemption and **NAC 368A.480** addresses the documentation required to support exemption of the nonprofit organization.

Entertainment offered to the public – Entertainment offered, for example, in a pool area open only to hotel guests **would not** be entertainment offered to the public. Otherwise, provided the event is outdoors (even if there is a tent or other temporary structure involved), there is no admission charge, and there is no requirement to purchase anything, the event is not subject to the tax.

[NRS 368A.200(5)(m)]

Photographs – Questions are often raised as to whether pictures can be considered merchandise. If the licensee sells photographs of patrons with celebrities or in an attraction as memorabilia for the patron, this is considered a service, and services are not subject to the live entertainment tax. However, if a licensee sells posters or other merchandise featuring photographs, these items are considered merchandise. See also FAQ O1 at http://gaming.nv.gov/documents/pdf/let_faqs.pdf

Tournament awards banquets – Gaming tournaments award banquets/parties that include entertainment are to be considered private meetings/dinners not primarily conducted for entertainment purposes, and therefore, are nontaxable events per NRS 368A.200(5)(i). Note, however, if a package deal is offered whereby a patron can purchase entry into the tournament along with items subject to the live entertainment tax, such as show tickets, then see “Tournament Package Programs” later in this manual.

ACCOUNTING PROCEDURES AND ADDITIONAL NOTES

- Complimentaries are not subject to LET. When comps are deducted to calculate taxable revenue, care should be taken to ensure that gross comps (which include taxes) are deducted from gross revenue; or conversely, net comps (net of taxes) are deducted from net revenue. Usually, this is performed on a daily basis during audit procedures. Another acceptable method is to include the comp tickets in the gross revenue and deduct the comps at the end of the month from the gross revenue. If this method is used, the licensee must maintain documents showing the daily comps separately for each individual event to which the tax applies.
- If a lessee operates an entertainment venue on the premises of a licensed gaming establishment and collects money for comps given by the licensee to its gaming patrons, the money collected by the lessee from the licensee is taxable. This is because pursuant to NAC 368A.450(4)(a)(2), revenue received by the “operator of the facility” (in this case the lessee) is subject tax. Note that sometimes the lessee will provide discount to the licensee for the comps, charging, for example 85% of the value of the entertainment item. Where a discounted amount is collected, only the amount actually collected, rather than the retail value, is subject to the tax.

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- Comps between operations that are part of a larger corporate entity are considered true comps and are not subject to the tax. This is because no revenue is flowing into the larger corporate entity.
- Pursuant to NRS 368A.200(4), if an **admission ticket** doesn't specifically state which taxes are included in the price using language permitted by NAC 368A.460, the entire ticket price is subject to entertainment tax (and the licensee is considered to be absorbing the tax). "All taxes" is **not** acceptable. The regulations do not require that the patron be notified as to whether LET is included in the price of lounge drinks, restaurant meals or other situations. The inclusion of wording to this effect applies **only** to admission tickets. See "Show Ticket Sales" for more information.
- Consistency and propriety should be used in calculating taxes. When the base amount is the same for both entertainment and sales taxes, they should be calculated in the same manner. If an item is subject to both taxes, then the computation from gross to taxable sales should be performed in a single step. For example, assume the licensee collected \$100,000 in sales and this amount covered both taxes. Assume that the sales are subject to a 10% live entertainment tax and a 8.1% sales tax. The proper computation is to divide \$100,000 by 1.181 to arrive at the taxable sale. Handling these computations in another manner is likely to result in the incorrect taxable base for one or both taxes. Errors of this type are relatively common. See "General Accounting" for more information.
- Although NRS 368A.200(2)(b) allows a licensee to exclude from taxable sales amounts paid to other parties, a licensee may not deduct from taxable sales those fees paid in conjunction with events not subject to the tax.
- If tickets are sold by an affiliate of the licensee (or an affiliate of the company running the entertainment venue), taxable revenue is based on the amount collected from the customer, even if the company making the sale retains a portion of the ticket proceeds.
- With the exception of affiliated properties, a licensee may not deduct fees paid, including credit card fees paid, for events not reported on its tax return. For example, if Casino A sells a ticket for a show at Casino B (unaffiliated with Casino A), Casino A may not deduct the credit card fees associated with those sales. Casino B only pays taxes on the amounts forwarded by Casino A and the two properties can contractually agree to reduce the amount forwarded by the expenses associated with the sale.
- Many licensees charge processing fees to offset the cost of selling tickets. Processing fees charged and retained by the licensee **increase** taxable revenue.

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PACKAGE PROGRAMS

Package programs sold by licensees typically are sold at a lower price than what would be paid for all the components purchased individually. Because a licensee does not receive the same amount for a package that it would when the individual components are sold at full retail prices, it is necessary to allocate revenue to the individual components on an equitable basis, as mandated by **NAC 368A.450(5)**. Package program breakdowns accomplish this. Of course, the focus will be on entertainment taxable items. A list of package program terms, package program breakdown tips and a general form for the breakdowns follow. Note that NAC 368A.450(5)(b) requires that licensees pay taxes on the full retail value of food and beverage items with an average retail value of less than \$5. Such items should be excluded from package computations.

PACKAGE PROGRAM TERMS

The following terms are applicable to package programs:

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| Breakage | The amount of revenue from the package price that is not assigned to a component of the package in a breakdown. |
| Breakdown | A schedule of the amounts (per package component) at which revenue is recorded when the package components are redeemed. |
| Casino rates | The amount charged a patron for a hotel room when the customer is a known player in the casino. |
| Commission | The amount an authorized seller receives from the licensee for each package sold. (e.g., 10% of the package price). |
| Nonprofit costs | An expense to the licensee that does not involve a benefit to the licensee. Package programs contain nonprofit costs such as room tax, sales tax, gratuities, etc. In order to be a nonprofit cost, the amount must be payable to a third party and not involve a business decision by the licensee. |
| Package price | The amount the customer pays to purchase the package. |
| Package program coupon book | A small booklet given to the patron containing coupons for each element of the package. The patron uses the coupons when he wants to redeem a component of the package (e.g., a package program patron will present to the waiter a showroom coupon instead of paying cash for seeing the show). |
| Package program flyer | A brochure that contains a description of the contents and terms of the package. |

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| Per person double occupancy | The term used when describing the amount charged one person for a room when the person shares the room with another person. Package prices are usually based upon what type of room the customer receives (e.g., \$65.00 per person double occupancy vs. \$79.00 per person single occupancy). |
| Rack rates | The standard amount charged a patron for a hotel room. This rate may fluctuate based on the day of the week or the season of the year. |
| Redeemed coupons | Coupons that were used by the package program patrons. |
| Unredeemed coupons | Coupons that were issued to customers (i.e., the customer paid for the coupon) but were not used by the customer. Entertainment tax is due on a package program coupon whether the customer uses it or not, because payment has been received for the coupon [see NAC 368A.420(1)(b)]. |

PACKAGE PROGRAM BREAKDOWN TIPS

A licensee may offer programs that entitle purchasers to several services (i.e., hotel room for two nights, one dinner show, two cocktails in the lounge, luggage delivery, etc.). This is known as a package program. These packages are normally sold at a discount. In such cases, the licensee must ensure the discount is allocated proportionately to all elements of the package. In performing a package program breakdown consideration should be given to the following items:

1. Retail prices should be documented and include the source of the retail price information (i.e., cash register tapes, menus, documentation of price changes, etc.).
2. Weighted averages can be used to account for retail price changes of package items. They can also be used to account for package components where the patron has the option to select from a list of choices (e.g., various items from a menu).
3. Examine both coupon books and package flyers to determine components of the packages.
4. An item has intrinsic value if it may be exchanged for food, drinks, merchandise or service. Package components with an intrinsic value may be included as a nonprofit cost, if the cost of the item is absorbed. For example, a package includes a coupon for a \$1.00 discount for pizza in the pizza parlor. The licensee pays the pizza parlor, which is not owned by the licensee, \$1.00 for each discount coupon redeemed. The package breakdown would include \$1.00 as a nonprofit cost.

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5. Examine all coupons to determine which coupons include tax and tip. Some coupons may only include tax.
6. Breakdowns should be computed for each version (i.e., when components change) of the package program.
7. Beware of any sales tax rate and gratuity changes. If the charges for food and beverage are itemized separately from admission charges, sales tax should be charged only on the food and beverage portion. Verify what is remitted to third parties as gratuities, sales taxes, room taxes, etc. Only the remitted amounts should be included as nonprofit costs in the package program breakdown.
8. The tax on entertainment within a package program should be based upon the value of all the entertainment offered in the program. For example, if a program offers two types of entertainment (showroom and lounge), then the tax due is based upon the value of the two combined.
9. Items that are offered free to the general public but are included in the package should not be given a retail value in the breakdown (e.g., if a free show coupon is included in the package yet is also available free to the general public, no value would be assigned in the breakdown).
10. Bar coupons should be apportioned between entertainment and nonentertainment areas as well as entertainment status vs. nonentertainment status for entertainment areas. A certain percentage of the coupons in the allocations can be non-taxable items if it can be demonstrated, through redemptions, that the same or similar percentage of items were redeemed in non-taxable areas/times.
11. If unlimited drink coupons are included in a package program, allocations should be based on the actual redemption records. If no records are available an estimate should be used. In general, the assumed number should not be less than two drinks per person per day up to a maximum of ten per person total. For other unlimited items, the number used in the calculation should be reasonable given the nature of the item offered and the length of the patron's stay included in the package.
12. Be sure that the amount allocated to LET items does not exceed the regular retail price of the LET items. **Food and refreshments in taxable entertainment areas** valued at less than \$5 should be omitted entirely from the breakdown when computing the retail value. This is based on NAC 368A.450(5)(c) since items less than \$5 are taxed at retail. Note that because the sales price is not adjusted for the value of these items, the sales price is spread across fewer items. Remaining LET items will be valued higher than they would be if the value of all elements had been recognized. If this is the case, use the retail price, not the allocated price.
13. Two-for-one coupons for show admissions included in the package should be given zero value. The patron is *not* afforded the right to attend a show by getting this

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coupon. When the patron redeems the coupon, paying additional fees, the revenue from that sale is subject to entertainment tax.

It is not necessary to do package program breakdowns in the following situations:

1. The package program entertainment items are reported at retail. Note that NAC 368A.450(5)(c) indicates that licensees have the option of paying LET on full retail value of the package components.
2. Each of the package's entertainment components retails at less than \$5 [NAC 368A.450(5)(b)]. Entertainment components valued at less than \$5 are taxed at the retail price. However, a package containing unlimited drinks redeemable in areas subject to entertainment tax is considered to be one element of the package (and thus in excess of the \$5 threshold). If a coupon is good for more than one drink the value of the coupon is the number of drinks times the average drink price. So, if the average drink price is \$4 and the coupon is good for 2 drinks, the value of the coupon is \$8. Where the coupon's total value exceeds \$5, the need to do a breakdown would not be eliminated, and taxes may be paid based upon an allocation.

PACKAGE PROGRAM BREAKDOWN

General Note for all Package Program Examples: Be sure to consider the facility where the ticket is sold, i.e., 10% tax rate is applicable for facilities with less than 7,500 available seats and 5% tax rate is applicable for facilities with 7,500 or more seats.

The following formula is used to estimate the taxable portion of a package program:

$$\frac{S-C}{R-C} \times E = \text{taxable amount per package}$$

Where:

S = Package program sales price (i.e., amount received by licensee less travel agent commission, if any).

C = Nonprofit costs (i.e., items on which licensee does not make a profit (sales tax, entertainment tax, tips, luggage delivery, etc.)). Note: Commissions may be prorated based upon the number of packages sold by travel agencies, etc. to the total number of packages sold and treated as a nonprofit cost in the formula.

R = Retail sales price of all items in the package (including free coins but generally excluding free play coupons and other promotional coupons).

E = Net retail sales price of all items subject to entertainment.

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A blank table that can be used to perform a package breakdown is included at the end of this manual.

Examples of the application of this formula are as follows:

The following example includes the following scenario: In order to obtain the package, double occupancy is required; therefore, the room rate is halved from rack rate. There are no food or beverage items included as a part of the show ticket and the package includes gratuity on the show ticket.

| <u>Package Components</u> | <u>Tax and Gratuity Rate</u> | <u>Advertised (Street) Price</u> | <u>Net Retail Price</u> | <u>Nonprofit Costs</u> | <u>LET Items</u> |
|---------------------------|------------------------------|----------------------------------|--------------------------|--------------------------|--------------------------|
| Room | | 45.00 | 45.00 | | |
| Room tax | 12% | | 5.40 | 5.40 | |
| Bellman | | | 3.00 | 3.00 | |
| Show ticket | | 30.00 | 30.00 | | 30.00 |
| Ent tax | 10% | | 3.00 | 3.00 | |
| Gratuity | 17% | 5.10 | <u>5.10</u> | <u>5.10</u> | |
| Total | | | <u>91.50</u> R | <u>16.50</u> C | <u>30.00</u> E |

| | |
|---|-------------------------|
| Sales price per person (taxes included), double occupancy | \$80.00 |
| Travel agent commission | <u>5.00</u> |
| Net amount received by licensee | <u>\$75.00</u> S |

Estimated entertainment revenue:

$$\frac{(75.00 - 16.50)}{(91.50 - 16.50)} \times 30.00 = \$23.40$$

The following example includes the following scenario: In order to obtain the package, double occupancy is required, therefore, the room rate is halved from rack rate. All applicable taxes are included in the show ticket. There are 2 beverage items included as a part of the show ticket and the package includes gratuity on the show ticket.

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| <u>Package Components</u> | <u>Tax and Gratuity Rate</u> | <u>Advertised (Street) Price</u> | <u>Net Retail Price</u> | <u>Nonprofit Costs</u> | <u>LET Items</u> |
|---------------------------|------------------------------|----------------------------------|-------------------------|------------------------|-------------------|
| Room | | 45.00 | 45.00 | | |
| Room tax | 12% | | 5.40 | 5.40 | |
| Bellman | | | 3.00 | 3.00 | |
| Show ticket | | 30.00 | 20.00 | | 20.00 |
| Ent tax on Admission | 10% | | 2.00 | 2.00 | |
| Drinks | | | 6.77 | | 6.77 |
| Sales tax on drinks | 8.1% | | .55 | .55 | |
| Ent tax on drinks | 10% | | .68 | .68 | |
| Gratuity | 17% | 5.10 | <u>5.10</u> | <u>5.10</u> | <u> </u> |
| Total | | | <u>88.50</u> | <u>16.73</u> | <u>26.77</u> |
| | | | R | C | E |

Sales price per person (includes taxes), double occupancy \$80.00

Travel agent commission 5.00

Net amount received by licensee \$75.00 **S**

Estimated entertainment revenue:

$$\frac{(75.00 - 16.73)}{(88.50 - 16.73)} \times 26.77 = \$21.73$$

Tournament Package Programs

Be aware of any entertainment items offered in conjunction with a tournament. A portion of the amount paid may be subject to entertainment tax.

The following is an example of the calculation that should be used if the patron had the opportunity to pay one fee for the tournament only and a higher fee for the tournament and a show:

Assume that for \$1,000 the patron would receive the right to play in the tournament, a hotel room and a show. Also assume that a patron could pay \$800 to play in the tournament only.

Other given information:

500 patrons paid \$1,000

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100 patrons paid \$ 800

Total entry fees: \$580,000

Total prizes awarded: \$450,000

\$200 attributable to non-tournament items

Total retail value of room and show: \$350

Nonprofit costs: \$19

Retail value of the show: \$25

Calculation of the amount subject to LET:

$$\frac{\$200 - \$19}{\$350 - \$19} \times \$25 \times 500 = \$6,835$$

In cases where the tournament brochures did not specifically indicate an option to play in the tournament without the other items, the following calculation should be used (using some of the same information as above):

500 patrons paid \$1,000 each to enter: \$500,000

Total prizes awarded: \$450,000

$$\frac{\$450,000}{500} = \$900 \text{ average guaranteed payback per entrant}$$

(considered a nonprofit cost)

$$\frac{\$1,000 - \$919}{\$350 + \$900 - \$919} \times \$25 \times 500 = \$3,059$$

Note that if the tournament prizes awarded exceed the total tournament fees collected, no package program allocation is deemed necessary.

SHOW TICKET SALES

If an admission ticket doesn't specifically state that entertainment tax is included in the price, as addressed in NRS 368A.200(4) the entire ticket price is subject to entertainment tax (and the licensee is considered to be absorbing the tax). Acceptable phraseology to meet this requirement is specified in NAC 368.460. "All taxes" notation on the ticket is **not** acceptable. For example, if the licensee charges \$100 for an admission ticket and they have the required verbiage on the ticket, the taxable amount is \$90.91 (\$100/1.1). If they don't have the required verbiage, the taxable amount is \$100.

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The total amount charged for showroom sales, less gratuity, entertainment and sales taxes, is the amount subject to tax. However, admissions charges themselves are not subject to **sales** tax; only the amount attributable to food or drink is subject to sales tax. The following example shows how to determine entertainment taxable revenue:

Example:

A show ticket is sold to a casino patron for a total of \$112.00 which includes taxes (10% entertainment tax and a 8.1% sales tax) and gratuity (rate is 17% of drink prices per contractual agreement). The show includes 2 \$4.00 drinks; this is the amount allocated to the drinks by the licensee.

| | |
|----------|--|
| \$112.00 | Amount received |
| - 1.36 | Gratuity (\$8.00 x 17% contractual rate) |
| - .65 | Sales tax (\$8.00 x 8.1%) |
| 109.99 | Base price plus entertainment tax |

$\frac{109.99}{1.1} = 99.99$ Revenue subject to entertainment tax

GENERAL ACCOUNTING

An important part of the entertainment revenue calculation is arriving at the “correct” net amount subject to the tax. For example, we know that a base price of \$10 together with sales tax of 8.1% and entertainment tax of 10% would cost a patron a total of \$11.81. \$10 is the amount of entertainment revenue. However, a licensee should start with the total cost to the patron and back out taxes. If the calculation is performed by first removing sales tax, then entertainment tax (rather than backing them simultaneously), revenue will be understated as shown below.

| | |
|------------------------------|---|
| To remove sales tax: | $\$11.81 \div 1.081 = \10.93 |
| To remove entertainment tax: | $\$10.93 \div 1.1 = \9.94 (computed taxable amount) |

We know that the base price is \$10.00. Therefore, revenue is not being calculated correctly. To prove that backing out both taxes simultaneously results in the proper taxable amount, consider the following:

$$\$11.81 \div 1.181 = \$10$$

Be aware that some computer systems back out the sales tax using the improper formula. Don't take for granted that an amount is proper because it is computer generated. The formulas make all the difference.

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CREDIT CARD FEES

Credit/debit card fees paid to persons other than the licensee are not subject to entertainment tax. The basis for this exemption, effective January 1, 2004, is **NRS 368A.200(2)(b)**, and **NAC 368A.450(3)** prescribes the proper computation.

Accounting for Credit Card Fees and Entertainment Revenue

The credit card fee should be accounted for by reducing gross entertainment revenue by the credit card fee prior to the backing out of taxes. Note that the licensee may deduct the amount of credit card fees that are associated with gratuities as well as for the amount of the actual ticket price. However, it is normal for the licensee to not know the actual credit card fee until well after the daily revenue figure has been calculated. When the fees are subsequently determined, the same algebraic equation must be applied to the fees as was originally applied to the gross entertainment revenue figure.

The amount of information about credit card fees known at the time of the sale would affect the manner in which revenue is booked in the accounting records. However, whether the fees are known at the time of the sale or determined later, the end result should be the same.

Note: The following credit card examples shown do not include sales tax. If the gross sales amount included sales tax, these calculations would also need to factor in sales tax. Furthermore, these examples assume sales are subject to a 10% tax. If sales are subject to a 5% entertainment tax, the computation of net taxable sales would be adjusted accordingly.

Example 1A: Licensee Knows Credit Card Fees at Time of Sale

\$107,000 entire gross sale including tax collected
\$7,000 credit card fees associated with these sales

| | | |
|------------|-------------------------|--|
| | \$107,000 | Gross sales |
| Subtract | <u>7,000</u> | Credit card fees paid not subject to LET |
| | \$100,000 | |
| Divided by | <u>1.1</u> | To remove entertainment tax |
| | <u>\$ 90,909</u> | Net LET taxable revenue |

Example 1B: Licensee Does Not Know Credit Card Fees at Time of Sale

| | | |
|------------|-------------------------|-----------------------------|
| | \$107,000 | Gross sales |
| Divided by | <u>1.1</u> | To remove entertainment tax |
| | <u>\$ 97,273</u> | |

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Once the licensee finds out that credit card fees were \$7,000, net LET revenue would be calculated as follows:

$$97,273 - (7,000/1.1) = \textbf{\$90,909 Net LET taxable revenue}$$

Note that either method will produce the same results:

$$(107,000 - 7,000)/1.1 = 90,909$$

or

$$(107,000/1.1) - (7,000/1.1) = 90,909$$

Assuming that in the above examples that the \$107,000 in gross sales also included \$6,000 in gratuities, the net taxable revenue needs to be further reduced by \$5,454 (\$6,000/1.1). Summarized, the calculation in 1A would be $(107,000 - 7,000 - 6,000)/1.1 = \$85,455$. The calculation in 1B would be $(107,000/1.1) - (7,000/1.1) - (6,000/1.1) = \$85,455$.

Fees or Adjustments Not Deductible

The various credit/debit card fees and rates can be found on the credit/debit card statements. While percentage rates and flat fees per transactions can be deducted, monthly fees that are not directly related to the sales process or are not part of the actual credit card process cannot be deducted. The following rules apply:

1. Monthly Service Fee — This is usually not more than \$10. It can also be a rental fee for credit card swipe machine. It is never deductible.
2. Chargeback Fees — This fee may be imposed when a patron protests a charge. The credit card company investigates the protest, eventually awards the charge to the casino, and then assesses the casino a fee for their investigative efforts (e.g. \$10). Chargeback fees may only be deducted to the extent that the licensee can show that the fee related directly to a sale of an entertainment item. Fees may not be prorated between entertainment and non-entertainment sales.
3. Facility, Phone or Service Fees — These are additional fees that the licensee may charge the patron. Since the licensee retains this fee, it would be subject to entertainment tax and would not be deductible.
4. Voice Authorization Fees — This is when the licensee must call in and talk to a representative to get the credit card authorized. The same rules as stated in #2 above apply.

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DISCOUNT SHOW TICKET SALES

General Note for all Examples: Be sure to consider the facility where the ticket is sold, because a 10% tax rate is applicable for facilities with less than 7,500 maximum occupancy and a 5% tax rate is applicable for facilities with 7,500 or greater maximum occupancy.

Various licensees sell show tickets at a discount to wholesalers who in turn sell the tickets to individuals for a price that normally includes a profit for the wholesaler. In most cases, the amount received by the licensee includes the price of admission, sales tax, tip, and entertainment tax. However, if tickets are sold by an affiliate of the licensee (or an affiliate of the company running the entertainment venue), pursuant to NAC 368.450(4)(b) taxable revenue is based on the amount collected from the customer, even if the company making the sale retains a portion of the ticket proceeds.

The licensee should pay tax on all tickets for which it has received payment, either directly from the patron or the wholesaler. The tax, therefore, would be due even though the patron did not redeem the ticket unless the amount was refunded to the patron.

DISCOUNT SHOW TICKET TERMS

The following terms are applicable to discount show tickets:

| | |
|--|---|
| Bill to wholesalers | Wholesalers that are billed (usually through accounts receivable) for discount show tickets that were redeemed at the casino. In that the licensee does not receive payment for unredeemed tickets, there is no tax due on unredeemed discount show tickets. |
| Discount show ticket | A ticket to a show for which the licensee receives an amount less than the retail price of the show, with the entity selling the ticket keeping the difference as compensation for selling the ticket. |
| Discount show ticket wholesaler | A person (or agency) that sells show tickets to the public for the licensee and pays the licensee an amount per ticket that is less than the retail price (i.e., a discounted price). |
| Prepay wholesalers | Wholesalers that purchase a block of discount show tickets that the wholesaler will in turn sell to the public. In this case the licensee receives revenue for a block of tickets whether the tickets are redeemed or not. Because the licensee receives payment for all tickets, tax must be paid on the unredeemed tickets. |

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| | |
|---|--|
| Redeemed discount show tickets | Show tickets purchased by a customer from a wholesaler that were used to attend a show. Generally, an amount is included in entertainment revenue for the ticket at the point in time that the ticket is used. |
| Unredeemed discount show tickets | Show tickets for which the licensee received payment but were not used to see the show. |
| Wholesaler's commission | The difference between the retail price of the show and the amount paid to the licensee by the wholesaler. |

DISCOUNT SHOW TICKET EXAMPLES

The following three examples of discount show ticket breakdowns use the following variables (note that drinks are included and the licensee does not allocate between the admission charge and the price of the drink, thus the entire amount is subject to the sales tax):

| | |
|--|---------|
| Retail Price of Show - R (Net of tax & tip) | \$14.95 |
| Entertainment Tax - 10% | |
| Sales Tax - 8.1% | |
| Gratuity Rate - 17% (Determined through a review of the licensee's union contract or other written agreements) | |
| Discount Price - DP (Amount received by licensee from wholesaler) | \$14.50 |

Example #1: Licensee pays gratuity based upon retail price:

| | |
|---|----------------|
| DP | \$14.50 |
| Gratuity (\$14.95 x .17) | <u>- 2.54</u> |
| | \$11.96 |
| Net of sales and entertainment tax (1 + 8.1% + 10%) | <u>÷ 1.181</u> |
| Revenue subject to tax | <u>\$10.13</u> |

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Example #2: Licensee pays gratuity based upon discount price:

| | |
|---|----------------|
| DP | \$14.50 |
| Gratuity (\$14.50 x .17) | <u>- 2.47</u> |
| | \$12.03 |
| Net of sales and entertainment tax (1 + 8.1% + 10%) | <u>÷ 1.181</u> |
| Revenue subject to tax | <u>\$10.19</u> |

Example #3: Licensee pays gratuity based upon discount price net of gratuity, sales tax and entertainment tax.

| | |
|--|----------------|
| DP | \$14.50 |
| Net of sales and entertainment tax (1 + 8.1% + 10%+17%) | <u>÷ 1.351</u> |
| Revenue subject to tax | <u>\$10.73</u> |

Example #4:

A show ticket is sold to a casino patron by another licensee. This show ticket is priced at \$10.00 plus taxes and gratuity for a total of \$13.51. The show includes 2 drinks; no drink prices are specified. In addition, the licensee selling the ticket is given a \$3.00 commission for each ticket it sells and remits the net amount upon billing.

| | |
|----------------------|---|
| \$13.51 | Full retail, inclusive |
| <u>- 3.00</u> | Commission |
| <u>\$10.51</u> | Amount received |
| \$10.51 | Amount received |
| - 1.70 | Gratuity (\$10.00 x 17% contractual rate) |
| <u>- .81</u> | Sales tax (\$10.00 x 8.1%) |
| <u>\$ 8.00</u> | Entertainment taxable base plus LET |
| <u>\$8.00</u> 1.1 | = \$7.27 Revenue subject to entertainment tax |

Example #5:

A show ticket is sold at a discount to wholesalers. The discounted ticket contains a statement that taxes and gratuity are included and also that the patron will receive 2 drinks (the same as any other show ticket sold directly to the patron). The amount the licensee receives from the wholesaler for each ticket is \$5.00, paid at the time of purchase. The ticket is normally sold at a retail price of \$10.00 plus taxes and gratuity.

| | |
|---------------|---|
| \$5.00 | Amount received |
| <u>- 1.70</u> | Gratuity (\$10.00 x 17% contractual rate) |
| \$3.30 | Base price plus taxes |

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$$\frac{\$3.30}{1.181} = \$2.79 \text{ Entertainment (and sales) taxable base price}$$

Note that in both examples the sales tax payable is computed on the amount the licensee or the licensee's agent charges for the ticket. If the prepay wholesaler resells the ticket, that wholesaler will be responsible for any additional sales tax, not the licensee.

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Package Program Breakdowns

Package Name _____ Period in Effect _____

| Package Components | Applicable Tax and Gratuity Rate | Advertised (Street) Price (R) | Net Retail Price (S) | Nonprofit Costs (C) | CET Items (E) | W/P or Comments |
|--|-------------------------------------|---|--------------------------------|-------------------------------|----------------------|--------------------|
| Room | | | | | | |
| Room Tax | | | | | | |
| Show Ticket | | | | | | |
| Sales Tax | | | | | | |
| Entertainment Tax | | | | | | |
| Gratuity | | | | | | |
| Bellman | | | | | | |
| Food | | | | | | |
| Sales Tax | | | | | | |
| Gratuity | | | | | | |
| Free Play | | | | | | |
| Keno | | | | | | |
| Slots | | | | | | |
| Table Games | | | | | | |
| Other | | | | | | |
| Miscellaneous | | | | | | |
| | | | | | | |
| Total | | | | | | |
| Sales Price | | | | | | |
| | | | | | | |
| Travel Agent Commission | | | | | | |
| | | | | | | |
| Other | | | | | | |
| | | | | | | |
| Net Amount Received | | | | | | |
| Calculated Taxable Amount Per Package: \$ _____ Taxable Amount Used by Licensee: \$ _____ | | | | | | |